IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 369 OF 1988.

The Commissioner of Income-Tax ... Applicant.

V/s.

V.K.Garodia (since deceased)
through his son Shri D.V.Garodia ... Respondent.

Ashok Kotangale for the applicant-revenue.

None for the respondent-assessee.

CORAM : V.C.DAGA AND A.S.AGUIAR, JJ.

DATED : 30th June 2005.

P.C. :

. By this reference under section 256 of the Income-tax Act, 1961, the Income Tax Appellate Tribunal has referred the following questions of law for the opinion of this Court:

> "Whether, on the facts and in the circumstances of the case, the amount of Rs.85,500/- received by the assessee in lieu of relinquishing his right, title and interest in the partnership firm of M/s.B.Balwant & Co., is liable to tax as income under the head 'Longterm Capital Gains' ?

2. Heard learned counsel for the applicant-revenue. Perused reference proceedings.

3. It is brought to our notice that the instructions issued by the Central Board of Direct Taxes, New Delhi dated 27th March, 2000; wherein monetary limit for the department for filing

reference to the High Court earlier fixed for Rs.50,000/- came to be revised and fresh instructions are issued by the Board to file reference only in cases where tax effect exceeds Rs.2,00,000/-.

4. This Court in the case of **C.I.T. v. Camco Colour Co.**, (2002) 254 ITR 565 ruled that the above instructions are binding on the department.

5. The above instructions dated 27th March, 2000 reflects the policy decision taken by the Board not to raise questions of law where the tax effect is less than the amount prescribed in the instructions with a view to reduce litigations before High Courts and Supreme court. The circular is binding on the Revenue. There is no justification to proceed with the decades old references having negligible tax effect.

6. We, thus, do not think it necessary to answer the reference made to this Court for the assessment year 1970-71. Accordingly, reference stands returned unanswered with no order as to costs.

(A.S.AGUIAR, J.) **(V.C.DAGA, J.)**